

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

March 13, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

REQUEST FOR APPROVAL TO HOLD PUBLIC MEETINGS AND HEARINGS TO  
AMEND HAWAII ADMINISTRATIVE RULES, SECTION 13-95-70, STONY CORALS,  
AND HAWAII ADMINISTRATIVE RULES, SECTION 13-95-71, LIVE ROCKS

Submitted for your consideration and approval is a request to hold public meetings and hearings to amend Hawaii Administrative Rules (HAR) sections 13-95-70 and 13-95-71 to allow the Department of Land and Natural Resources (DLNR) to more effectively regulate and protect stony coral and live rock.

The amendments clarify that it is unlawful to take, break, or damage stony coral and live rock and that this prohibition is not limited to persons using a crowbar, chisel, hammer, or implement. Despite the fact that the term "implement" can be interpreted broadly, the existing language unnecessarily obscures the broad statutory authority vested in DLNR to regulate and protect marine resources. The amendments eliminate reference to the method by which the take, break, or damage occurs. These amendments bring the stony coral and live rock rules into conformance with the vast majority of HAR chapter 95 marine resource rules, most of which do not limit violations to a particular instrumentality.

DLNR will retain the power to issue licenses and permits to exempt persons from the prohibitions, pursuant to HAR section 13-95-1.1.

RECOMMENDATION:


"That the Board approve the holding of public meetings and hearings to amend Section 13-95-70, Stony Corals, and Section 13-95-71, Live Rocks, Hawaii Administrative Rules."

Respectfully submitted,



DAN POLHEMUS, Administrator  
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN  
Chairperson

Attachment

ITEM F-6

Ramseyer Draft  
(03/13/2009)

Rules Amending Title 13  
Hawaii Administrative Rules

(date)

1. Section 13-95-70, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"§13-95-70 Stony corals. (a) It is unlawful for any person to take, break, or damage stony coral[, or to break or damage any stony coral with a crowbar, chisel, hammer, or any other implement]."

\*\*\* [Eff 12/03/98; am 12/09/02; am  
] (Auth: HRS §187A-5) (Imp: HRS  
§187A-5)

2. Section 13-95-71, Hawaii Administrative Rules, is amended to read as follows:

"§13-95-71 Live rocks. (a) It is unlawful for any person to take, break, damage, or sell live rock[, or to break or damage with crowbar, chisel, or any other implement, any rock or coral to which marine life is visibly attached or affixed].

[(b) It is unlawful for any person to sell any rock or coral to which marine life is visibly attached or affixed.]" [Eff 12/03/98; am 12/09/02; am

] (Auth: HRS §187A-5) (Imp: HRS  
§187A-5)

3. Material, except source notes, to be repealed is bracketed. New material is underscored.

4. Additions to update source notes to reflect these amendments are not underscored.

5. These amendments to chapter 13-95, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Laura Thielen, Chairperson  
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

\_\_\_\_\_  
Deputy Attorney General